



**SCULLY, SCOTT, MURPHY & PRESSER PC**

INTELLECTUAL PROPERTY LAW



TFW RECEIPT

400 GARDEN CITY PLAZA  
SUITE 300  
GARDEN CITY, NY 11530  
516-742-4343  
FAX: 516-742-4366  
E-MAIL: INTPROP@SSMP.COM  
WWW.SSMP.COM

August 18, 2006

LEOPOLD PRESSER  
FRANK S. DIGIGLIO  
PAUL J. ESATTO, JR.  
JOHN S. SENSNY  
MARK J. COHEN  
EDWARD W. GROLZ  
STEVEN FISCHMAN  
PETER I. BERNSTEIN  
THOMAS SPINELLI  
XIAOCHUN ZHU

ROBERT L. BERNSTEIN  
MARVIN BRESSLER  
DERMOTT J. COOKE<sup>o</sup>  
RICHARD J. DANYKO  
BRADLEY M. MARAZAS  
KATHERINE R. VIEYRA<sup>o</sup>  
SETH M. WEINFELD  
KEITH A. WELTSCH\*  
YONGZHI YANG<sup>o</sup>

PATENT AGENTS  
LESLIE S. SZIVOS, PHD  
DAVID J. TORRENTE, J.D.  
ZHUANG YUAN

COUNSEL  
BOSCO B. KIM  
BARRY M. KRIVISKY  
ALLEN R. MORGANSTERN  
ALEK P. SZECZY  
STEPHEN A. YOUNG

TECHNICAL CONSULTANTS  
DOMINICK A. TUCCIO

RETIRED  
JOHN F. SCULLY  
STEPHEN D. MURPHY

ANTHONY C. SCOTT  
1931-1994

<sup>o</sup>OH BAR ONLY  
<sup>o</sup>MD BAR ONLY  
<sup>o</sup>NC BAR ONLY

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Re: USSN: 10/523,856  
Helen G. Durkin, et al.  
Our Docket: 15727

Dear Sirs:

The Filing Receipt for the above-identified patent application has the Foreign Applications information incorrect. It should read as follows:

**Domestic Priority data as claimed by applicant: This Appln. Claims benefit of 60/402,411 08/09/02**

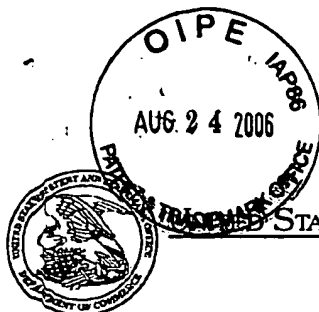
**Title: Method for monitoring the effectiveness of tetracycline in the treatment of asthma**

as indicated on the enclosed pages. Please make the corrections and send us a corrected Filing Receipt.

Very truly yours,

Scully, Scott, Murphy & Presser, P.C.

SSM&P/tw  
Encl.



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
 Address: COMMISSIONER FOR PATENTS  
 P.O. Box 1450  
 Alexandria, Virginia 22313-1450  
 www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/523,856	10/18/2005	1616	655	15727	1	29	2

CONFIRMATION NO. 4411

23389  
 SCULLY SCOTT MURPHY & PRESSER, PC  
 400 GARDEN CITY PLAZA  
 SUITE 300  
 GARDEN CITY, NY 11530

## FILING RECEIPT



\*OC000000017891319\*

Date Mailed: 01/23/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

## Applicant(s)

Helen G Durkin, Manhasset, NY;  
 Rauno Joks, Port Washington, NY;  
 Tamar A. Smith-Norowitz, Brooklyn, NY;  
 Martin H Bluth, West Hempstead, NY;

**Power of Attorney:** The patent practitioners associated with Customer Number 23389.

## Domestic Priority data as claimed by applicant

This application is a 371 of PCT/US03/24746 08/08/2003

## Foreign Applications

UNITED STATES OF AMERICA 60402411 08/09/2002

**Projected Publication Date:** 05/04/2006

**Non-Publication Request:** No

**Early Publication Request:** No

**\*\* SMALL ENTITY \*\***

**Title**

Method for monitoring the effectiveness of tetracycline in the treatment of asthma

**Preliminary Class**

424

**PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES**

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at <http://www.uspto.gov/web/offices/pac/doc/general/index.html>.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, <http://www.stopfakes.gov>. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

---

**LICENSE FOR FOREIGN FILING UNDER****Title 35, United States Code, Section 184****Title 37, Code of Federal Regulations, 5.11 & 5.15****GRANTED**

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof

unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

**NOT GRANTED**

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).



Docket No.

15727

# Declaration and Power of Attorney For Patent Application

## English Language Declaration

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name,

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled

**A METHOD FOR MONITORING THE EFFECTIVENESS OF TETRACYCLINE IN THE TREATMENT OF ASTHMA**

the specification of which  
(check one)

☐ is attached hereto.

☒ was filed on February 7, 2005 as United States Application No. or PCT International  
Application Number 10/523,856  
and was amended on \_\_\_\_\_

(if applicable)

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or (f), or 365(b) of any foreign application(s) for patent, inventor's or plant breeder's rights certificate(s), or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent, inventor's or plant breeder's rights certificate(s), or any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application(s)

Priority Not Claimed

PCT/US03/24746

PCT

8/8/2003

☐

(Number)

(Country)

(Day/Month/Year Filed)

☐

(Number)

(Country)

(Day/Month/Year Filed)

☐

(Number)

(Country)

(Day/Month/Year Filed)

(12) INTERNATIONAL APPLICATION PUBLISHED UNDER THE PATENT COOPERATION TREATY (PCT)

(19) World Intellectual Property  
Organization  
International Bureau



(43) International Publication Date  
19 February 2004 (19.02.2004)

PCT

(10) International Publication Number  
**WO 2004/014434 A1**

(51) International Patent Classification<sup>7</sup>: **A61K 49/00**

(21) International Application Number:  
PCT/US2003/024746

(22) International Filing Date: 8 August 2003 (08.08.2003)

(25) Filing Language: English

(26) Publication Language: English

(30) Priority Data:  
60/402,411 9 August 2002 (09.08.2002) US

(71) Applicants and

(72) Inventors: **DURKIN, Helen, G.** [US/US]; 1254 Plandoma Road, Manhasset, NY 11030 (US). **JOKS, Rauno** [US/US]; 74 Crescent Beach Road, Glen Cove, NY 11542 (US). **SMITH-NOROWITZ, Tamar, A.** [US/US]; 539 East 8th Street, Brooklyn, NY 11218 (US). **BLUTH, Martin, H.** [US/US]; 1244 East 19th Street, Brooklyn, NY 11230 (US).

(74) Agent: **GROLZ, Edward, W.; SCULLY, SCOTT, MURPHY & PRESSER**, 400 Garden City Plaza, Garden City, NY 11530 (US).

(81) Designated States (*national*): AE, AG, AL, AM, AT, AU, AZ, BA, BB, BG, BR, BY, BZ, CA, CH, CN, CO, CR, CU, CZ, DE, DK, DM, DZ, EC, EE, ES, FI, GB, GD, GE, GH, GM, HR, HU, ID, IL, IN, IS, JP, KE, KG, KP, KR, KZ, LC, LK, LR, LS, LT, LU, LV, MA, MD, MG, MK, MN, MW, MX, MZ, NI, NO, NZ, OM, PG, PH, PL, PT, RO, RU, SC, SD, SE, SG, SK, SL, SY, TJ, TM, TN, TR, TT, TZ, UA, UG, US, UZ, VC, VN, YU, ZA, ZM, ZW.

(84) Designated States (*regional*): ARIPO patent (GH, GM, KE, LS, MW, MZ, SD, SL, SZ, TZ, UG, ZM, ZW), Eurasian patent (AM, AZ, BY, KG, KZ, MD, RU, TJ, TM), European patent (AT, BE, BG, CH, CY, CZ, DE, DK, EE, ES, FI, FR, GB, GR, HU, IE, IT, LU, MC, NL, PT, RO, SE, SI, SK, TR), OAPI patent (BF, BJ, CF, CG, CI, CM, GA, GN, GQ, GW, ML, MR, NE, SN, TD, TG).

**Published:**

- with international search report
- before the expiration of the time limit for amending the claims and to be republished in the event of receipt of amendments

For two-letter codes and other abbreviations, refer to the "Guidance Notes on Codes and Abbreviations" appearing at the beginning of each regular issue of the PCT Gazette.

(54) Title: A METHOD FOR MONITORING THE EFFECTIVENESS OF TETRACYCLINE IN THE TREATMENT OF ASTHMA

(57) Abstract: The present invention is directed to a method of lowering excess IgE levels in a mammal suffering from a disease where IgE is pathogenic which method comprises administering to said mammal an IgE lowering effective amount of a tetracycline such as minocycline or doxycycline. It is also directed to a method of monitoring the effectiveness of a drug in lowering the concentration of excess IgE in the plasma in a mammal suffering from the disease in which IgE is pathogenic which method comprises making a first determination of the concentration of IgE in the plasma of said mammal at an initial time; administering to said mammal the drug; making a second determination of the concentration of IgE in the plasma of said mammal after the initial time and after administration of the drug and comparing the values obtained from the first and second determinations, such that if the value of the second determination is higher than or about the same as the value of the first determination and above a threshold level, then the dosage amount of the drug administered to the mammal is increased.

A1

WO 2004/014434